

# AUS USER POLICY

Customer agrees to this User Policy ("User Policy"), available at [www.ausis.com/AUS-AUP.pdf](http://www.ausis.com/AUS-AUP.pdf), with respect to the Services (defined below). In the event this User Policy changes, AUS agrees to provide the updated User Policy to AT&T, AT&T will have thirty (30) days to review and provide the updated User Policy to Customer. Customer's use of the Services will be deemed Customer's acceptance to this User Policy and any updated version of the User Policy when Customer uses the Services after such update. Terms used herein but not otherwise defined will have the meanings set forth in the Statement of Work. For all other Customers, AUS may change the User Policy by posting revisions and an effective date on its website at [www.ausis.com/AUS-AUP.pdf](http://www.ausis.com/AUS-AUP.pdf).

## 1. DEFINITIONS:

- 1.1. "Carrier Acceptable Use Policy" ("CAUP") means the policy(ies) of AUS' underlying wireless providers governing appropriate use of the Services. The CAUP may be amended from time to time by the underlying wireless provider, and any amendments or changes are incorporated into this Agreement by this reference and are subject to change without notice.
- 1.2. "Circuit" means a modem and unique WAN IP address that establishes both a physical and logical connection between a modem and a carrier serving tower.
- 1.3. "Customer Equipment" means all of Customer's Devices or equipment necessary to enable Customer to receive or use the Service that are not provided by Subcontractor, AT&T, or an underlying wireless carrier.
- 1.4. "Device" means a single unit of radio telephone equipment having a unique International Mobile Equipment Identity (IMEI) (including the associated SIM) for use in connection with its own Mobile Subscriber Integrated Services Digital Network Number that includes an operating system and other software, which is technically and operationally compatible with the underlying wireless carrier's network.
- 1.5. "Services" will mean the services provided by a third party wireless carrier to transmit data between wireless devices, computer servers or other machines, or between wireless devices, with limited or no manual intervention or supervision whether on a machine-to-machine (M2M) or an Internet of things (IoT) basis.
- 1.6. "Equipment" will mean the subscriber identity module ("SIM") or comparable device and any other equipment provided to Customer for use with the Services.

## 2. TERMS AND CONDITIONS:

- 2.1. Customer will at all times ensure that all Equipment and applications utilized in connection with the Services comply with Section 3.2 and any applicable requirements of the underlying wireless carrier. Customer's failure to do so may cause Customer's transmissions to fail, be blocked or misrouted, use a wireless service not intended by Customer and/or be subject to additional charges beyond those set forth in this Agreement. Customer hereby agrees to pay such additional charges. Except to the extent specifically set forth in a Statement of Work, Customer will have sole liability for Equipment, Customer Equipment, or Customer's failure to maintain or meet requirements applicable to Equipment and/or Customer Equipment. Any Customer Equipment and Equipment Customer uses in connection with the Equipment or Services will be at Customer's sole risk. Under no circumstances will AT&T or AUS be responsible for or obligated to make any changes to its equipment, operations, network or systems to accommodate Customer or any end user. Customer will comply with all laws, rules, and regulations applicable to Customer and Customer's use of the Equipment and Services.

## 3. USE RESTRICTIONS; DISCLAIMER OF WARRANTY

- 3.1. Customer agrees to use the Service in accordance with the CAUP. If Customer's use of the Service is determined to have violated the CAUP, the Service maybe be temporarily suspended or permanently terminated. In the case of termination due to CAUP violation, Customer will be charged the Termination Charge as defined in the applicable Statement of Work. The Service is for Customer's use only and Customer may not resell the Service to any other party or sublicense or distribute the Services to any other party without integration with other products and/or services.
- 3.2. Customer will only use the Services for authorized purposes pursuant to an approved service application such as M2M, business continuity, and managed network services, including failover, POTS line replacement, SD-WAN, and fixed wireless. Customer may not use the Services where voice service is the primary use. In no event will Customer use the Services for remote medical monitoring or location based services. Further, Customer may not use the Service or Equipment to: (i) continually or repeatedly dial telephone number associated with free conference calls, free chat lines, or other similar or related services that are used to increase the inter-carrier compensation billed to an underlying wireless carrier; (ii) compromise network security or capacity, degrade network performance, use malicious software or "malware", hinder other customers' access to the network, or otherwise adversely impact network service levels or legitimate data flows, including but not limited to automatic data feeds, automated machine-to-machine connections, or other applications that are used in a way that degrades network capacity or functionality; (iii) misuse the Service or Equipment, including "spamming" or sending unsolicited commercial messages, or abusive, fraudulent, harassing, or mass automated communications; (iv) attempt or assist another to access, alter or interfere with the communications and/or information of other data users; (v) rearrange, tamper or make an unauthorized connection with any network of an underlying wireless carrier; (vi) use or assist others in the use of any unethical or fraudulent scheme, or by or through any other unethical or fraudulent means or devices whatsoever, with intent to avoid payment of, in whole or in part, any charges for Service and/or Equipment; (vii) use the Service in such a manner so as to interfere unreasonably with the use of the Service by one or more other users; (viii) use the Service to convey information deemed to be obscene, salacious or prurient, or to convey information of a nature or in such a manner that renders such conveyance unlawful; (ix) install any amplifiers, enhancers, repeaters or other devices that modify or otherwise affect the radio frequencies used to provide the Service, other than those provided by the wireless carrier; (x) use or alter, or attempt to use or alter, the Service for any non-data purpose, including but not limited to services which primarily offer voice communications, including voice over IP services; (xi) use the Service for monitoring of third parties without their permission, including location-based tracking of individuals, except in the case of prisoner and parolee monitoring or as agreed to in writing by AT&T; (xii) use the Service for the sale to government entities, unless otherwise specified in writing by AT&T; (xiii) use the Service to provide life-sustaining medical

care for any individual, including without limitation, use of the Service in health care and assisted living environments; and (xiv) use the Services to harm, or attempt to harm, minors in any way. **AUS may without liability and without prior notice suspend, block, terminate, or otherwise disable its provision of all or any portion of the Service if Customer violates these restrictions.**

- 3.3. Customer will not, and will not allow any third party to: (i) use the Services for any purpose other than the purposes intended by AUS; (ii) decompile, disassemble, reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms or file formats or programming or interoperability interfaces of the Services or Equipment; (iii) remove any product identification, copyright, or other notices; (iv) modify, incorporate into, or with other software create a derivative work of any part of the Services or Equipment; (v) modify or otherwise alter the operation of the Services or Equipment, or program, reprogram, or tamper with the Services or Equipment in any manner; (vi) rent, lease, lend or provide commercial hosting services with the Services or Equipment; or (vii) insert any Equipment into devices bearing a mark of a different underlying wireless carrier or that are purchased from an underlying wireless carrier that have been packaged with such underlying wireless carrier's SIM.
- 3.4. Customer will not relocate Equipment outside the specified Site or use the Equipment or Services outside the United States of America without AUS's prior written consent. In the event Customer desires to relocate the Equipment outside of the specified Site, Customer will provide no less than fifteen (15) days' prior written notice to AUS, which will identify the proposed location of the Equipment.
- 3.5. Customer will not use any unapproved Customer Equipment or Customer Equipment that is defective, illegal, or does not meet the licensing or certification requirements required of the jurisdiction where such Customer Equipment is used. **AUS may without liability and without prior notice suspend, block, terminate, or otherwise disable its provision of all or any portion of the Service if Customer violates this restriction.**
- 3.6. CUSTOMER ACKNOWLEDGES THAT CUSTOMER HAS NO PROPERTY OR OTHER RIGHTS IN ANY TELEPHONE NUMBER OR OTHER IDENTIFIER ASSIGNED TO CUSTOMER AND THAT SUCH NUMBER OR OTHER IDENTIFIER MAY BE CHANGED FROM TIME TO TIME.
- 3.7. CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT WITH RESPECT TO THE SERVICES, IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND CUSTOMER IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN AUS AND THE UNDERLYING CARRIER. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT WITH RESPECT TO THE SERVICES, THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS WILL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFORE.

#### 4. DISCLAIMER OF WARRANTY

- 4.1. Customer acknowledges and agrees that the Services are provided via a public network routed over the carriers' connection to the internet and that the Services, as provided to Customer by AUS are not PCI-DSS compliant. CUSTOMER ACCEPTS FULL RESPONSIBILITY FOR COMPLIANCE WITH ANY APPLICABLE PCI-DSS GUIDELINES WITH RESPECT TO THE SERVICES AND AGREES THAT NEITHER AUS NOR THE UNDERLYING CARRIERS CAN GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS OVER THE SERVICES AND WILL NOT BE LIABLE FOR ANY LOSSES RELATING TO THE USE OF THE SERVICES. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE USE OF ANY INFORMATION AVAILABLE THROUGH THE SERVICES IS AT CUSTOMER'S OWN RISK AND RESPONSIBILITY

- 4.2. NEITHER AUS NOR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR VENDORS (INCLUDING BUT NOT LIMITED TO THE UNDERLYING WIRELESS CARRIERS AND ANY ROAMING WIRELESS CARRIER OR THEIR VENDORS, DEALERS, PARENT COMPANIES, AND AGENTS) (COLLECTIVELY, THE "AUS PARTIES") MAKE ANY WARRANTY OR REPRESENTATION WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, COMPATIBILITY WITH ANY EQUIPMENT OR SERVICES, FITNESS FOR USE, QUALITY, PERFORMANCE, SECURITY, OR NON-INFRINGEMENT OF THE SERVICE OR EQUIPMENT, THE USE OF THE EQUIPMENT, OR THAT SERVICE WILL BE ERROR-FREE, TRANSMIT ANY DATA IN AN UNCORRUPTED FORM, COMPLETE, OR UNINTERRUPTED, THAT ANY ERRORS OR MISTAKES WILL BE CORRECTED, OR THE USE IN CONNECTION WITH OTHER CUSTOMER MATERIAL, CUSTOMER PRODUCT, OR CUSTOMER SERVICE. ALL MATERIAL AND SERVICES ARE PROVIDED ON AN "AS IS" AND "WITH ALL FAULTS" BASIS.
- 4.3. CUSTOMER ACKNOWLEDGES THAT THE SERVICES MAY BE TEMPORARILY REFUSED, INTERRUPTED, CURTAILED OR LIMITED BECAUSE OF ATMOSPHERIC, TERRAIN, OR OTHER NATURAL OR ARTIFICIAL CONDITIONS, INCLUDING NETWORK OUTAGES, AND MAY BE TEMPORARILY INTERRUPTED OR CURTAILED DUE TO USAGE CONCENTRATIONS, MODIFICATIONS, UPGRADES, RELOCATION AND REPAIRS OF TRANSMISSION NETWORKS.

**5. LIMITATION OF LIABILITY AND INDEMNIFICATION:**

- 5.1. SOLELY WITH RESPECT TO THE SERVICES OR MATERIAL, IN NO EVENT WILL ANY AUS PARTY BE LIABLE TO CUSTOMER, CUSTOMER'S CLIENTS OR ANY THIRD PARTY UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS OR LOSS OF DATA.
- 5.2. SOLELY WITH RESPECT TO THE SERVICES OR EQUIPMENT, NO AUS PARTY WILL BE LIABLE: (A) FOR ANY DAMAGES ASSOCIATED WITH THE SUSPENSION, TERMINATION, INTERRUPTION, REDUCTION, OR LOSS OF USE OF SERVICES; (B) IF CHANGES IN THE SERVICE OR IN THE APPLICABLE NETWORK, SYSTEMS, OPERATIONS, EQUIPMENT, POLICIES OR PROCEDURES RENDER OBSOLETE OR OUTDATED ANY EQUIPMENT, HARDWARE, DEVICES OR SOFTWARE PROVIDED BY CUSTOMER; (C) FOR ANY CAUSES OF ACTION, LOSSES OR DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF MISTAKES, OMISSIONS, INTERRUPTIONS (INCLUDING, WITHOUT LIMITATION, FOR THOSE CAUSED BY ACTS OF GOD, STRIKES, FIRE, GOVERNMENT ACTIONS, EMERGENCIES, AND OTHER CAUSES BEYOND A AUS PARTY'S REASONABLE CONTROL), ACCESS OR LACK OF ACCESS, ERRORS, OR DEFECTS IN THE SERVICE, FAILURES OR DEFECTS IN THE NETWORK OR SYSTEMS, OR USE OF EQUIPMENT; (D) FOR ANY INJURY TO PERSONS OR PROPERTY, LOSSES (INCLUDING ANY LOSS OF BUSINESS), DAMAGES, CLAIMS OR DEMANDS OF ANY KIND OR NATURE; (E) FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE SERVICES; OR (F) FOR ANY DAMAGES ARISING OUT OF THE USE OR ATTEMPTED USE OF, OR THE INABILITY TO ACCESS, LIFE SUPPORT OR MONITORING SYSTEMS OR DEVICES, LOCATION SERVICES, 911 OR E911, OR OTHER EMERGENCY NUMBERS OR SERVICES.
- 5.3. CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT THE LIABILITY AND OBLIGATIONS OF SUBSCRIBER TO CUSTOMER UNDER THIS USER POLICY MAY BE STRICTLY CONTROLLED AND LIMITED BY AN UNDERLYING WIRELESS CARRIER'S TARIFF, IF ANY, AND THE LAWS, RULES AND REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION AND OTHER UNITED STATES OR FOREIGN GOVERNMENTAL AUTHORITIES WHICH FROM TIME TO TIME HAVE JURISDICTION. SOLELY WITH RESPECT TO THE SERVICES OR EQUIPMENT, AUS AND CUSTOMER AGREE THAT IF AUS OR, TO THE EXTENT REQUIRED BY APPLICABLE LAW, ANY

UNDERLYING WIRELESS CARRIER SHOULD BE FOUND LIABLE FOR LOSS OR DAMAGE DUE TO OR RESULTING FROM FAILURE OF AUS TO PERFORM ANY OF THE OBLIGATIONS HEREIN, ANY FAILURE OR DISRUPTION OF THE EQUIPMENT OR SERVICE, OR TO PROVIDE SERVICES, AUS'S LIABILITY FOR DAMAGES AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WILL BE LIMITED TO SIX (6) MONTHS OF CUSTOMER'S PAYMENTS TO AT&T FOR SERVICES. THE PROVISIONS OF THIS SECTION WILL APPLY IF LOSSES OR DAMAGES, IRRESPECTIVE OF CAUSE OR ORIGIN, FORM OF ACTION, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, RESULT DIRECTLY OR INDIRECTLY TO PERSONS OR PROPERTY, FROM PERFORMANCE OR NONPERFORMANCE OF THE OBLIGATIONS IMPOSED BY THIS AGREEMENT, PERFORMANCE OR NONPERFORMANCE OF THE SERVICES OR FROM NEGLIGENCE, ACTIVE OR OTHERWISE, OF AUS, ITS CUSTOMERS, ASSIGNS OR EMPLOYEES.

- 5.4. Solely with respect to the Services and the Equipment, Customer agrees to indemnify, defend and hold harmless and forever discharge AT&T and the AUS Parties from and against all claims, actions, liability, loss, damage (including personal injury or death and damage to property) and other expenses, including reasonable attorney's fees and costs, which may arise as a result, whether direct or indirect, from use, failure to use, or inability to use by Customer or any of its customers of the access telephone number, Services, and/or the Equipment. This Section 5 will survive any termination of this User Policy.

#### 6. LOSS AND DAMAGE OF EQUIPMENT:

Upon Customer's acceptance of Equipment, Customer assumes all risk of loss, damage, theft or destruction of all devices or items of Equipment and from any causes due to misuse, fault or negligence of Customer. Upon the occurrence of any loss, theft, destruction or damage beyond repair of such Equipment, Customer will pay the stipulated loss value. In the event of partial loss or damage to any device or item of Equipment due to misuse, fault or negligence of Customer, Customer will be solely responsible for any loss or expense of any repairs or replacements necessary to promptly return such device or Equipment to its former condition. Customer will be solely responsible for any loss or expense of any repairs, maintenance, upkeep, or replacements necessary for any Customer Equipment.

#### 7. ASSIGNMENT:

Customer acknowledges that this User Policy is assignable by AUS and AT&T without any prior consent from Customer.

#### 8. WAIVER:

AUS's failure to enforce any provision of this User Policy will not be construed as a waiver or limitation of AUS's right to subsequently enforce and compel strict compliance with every provision of this User Policy. A waiver or consent given on one occasion is effective only in that instance and will not be construed as a bar to or waiver of any other right on any other occasion.